

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
v.) CIVIL ACTION NO. 2:06cv42-WHA
ERIC MOORMAN) WO

ORDER

On January 11, 2006, Eric Moorman, a federal inmate, filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 in which he challenges the sentence imposed upon him in 1995 for conspiracy to distribute cocaine base and possession with intent to distribute cocaine base.¹ Upon review of Moorman's motion, the undersigned concludes that a limited response from the government is necessary at this time. Accordingly, the CLERK is hereby DIRECTED to serve a copy of Moorman's § 2255 motion upon the United States Attorney for the Middle District of Alabama. The United States Attorney is

ORDERED to file a response to Moorman's motion within thirty (30) days from the date of this order addressing the following matters:

1. The applicability of the one-year period of limitation in this case pursuant to the provisions contained in 28 U.S.C. § 2255.

¹Although Moorman's motion was stamped "received" in this court on January 18, 2006, under the "mailbox rule," the court deems his motion filed on the date he delivered it to prison authorities for mailing, presumptively, January 11, 2006, the day that he signed it. *See Houston v. Lack*, 487 U.S. 266, 271-72 (1988); *Washington v. United States*, 243 F.3d 1299, 1301 (11th Cir. 2001).

2. Moorman's claim that his sentence violates the holding of *United States v. Booker*, 543 U.S. ___, 125 S.Ct. 738 (2005).

The government is advised that its response should contain a detailed procedural history, all relevant records, and citations to applicable case law necessary for the court to determine the applicability of the limitation period contained in 28 U.S.C. § 2255 and to assess Moorman's claim that his sentence violates the holding of *Booker*. Should the government's response to the instant order indicate that this case must proceed on the merits, the government will be given an adequate opportunity to file a response addressing all claims presented in Moorman's § 2255 motion.

Done this 24th day of January, 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE